

SEP 28 2004

TODD P. BLAKELY
GARY J. CONNELL
SABRINA C. STAVISH
JOSEPH E. KOVARIK
SUSAN PRYOR WILLSON
LEWIS D. HANSEN
ROBERT R. BRUNELLI
DOUGLAS W. SWARTZ
BRUCE A. KUGLER
BRENT P. JOHNSON
BENJAMIN B. LIEB
BRADLEY M. KNEPPER
MIRIAM DRICKMAN TRUDELL
SCOTT R. BIALECKI
ROBERT D. TRAVER, Ph.D.
CHRISTOPHER J. HUSSIN
MARK L. YASKANIN
MARY BREEN SMITH
CRAIG W. MUELLER
PAUL S. CHA
THOMAS J. OSBORNE, JR.

SHERIDAN ROSS
A Professional Corporation
ATTORNEYS AND COUNSELORS AT LAW

1560 BROADWAY
SUITE 1200
DENVER, COLORADO 80202-5141

TELEPHONE (303) 863-9700
FACSIMILE (303) 863-0223
E-MAIL: srlaw@sheridanross.com

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KERMIT F. ROSS
1910-1986

OF COUNSEL
PHILIP H. SHERIDAN
DAVID F. ZINGER
CRAIG C. GROSETH

TECHNICAL SPECIALISTS
DENNIS J. DUPRAY, Ph.D.
ANGELA DALLAS SEBOR, Ph.D.

September 28, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

JOHNSON et al.

Serial No.: 10/634,103

Filed: August 1, 2003

Atty. File No.: 1604-459

For: "METHOD AND APPARATUS FOR
PROVIDING A GAS CORRELATION
FILTER FOR REMOTE SENSING OF
ATMOSPHERIC TRACE GASES"

Group Art Unit: 2873

Examiner: Thomas, Brandi N.

Confirmation No. 5859

RESPONSE TO
RESTRICTION REQUIREMENT

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SHERIDAN ROSS P.C.

KATHLEEN McINNISH

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

This response to restriction requirement is submitted in reply to the Examiner's Action having a mailing date of September 3, 2004. While no fees are believed due in connection with the filing of this paper, please charge any fees deemed necessary to Deposit Account No. 19-1970.

In the Office Action dated September 3, 2004, a requirement that one of three identified claim groups be selected for examination. The requirement is respectfully traversed. In particular, each of the identified groups of claims is not related to the other identified groups of claims as a process for using a product that can be practiced with another materially different product, or a product that can be used in a materially different process.

In particular, Applicants note that the claims identified as part of Group II (Claims 33-42) include a step of "forming a correlation filter." In comparison, the claims identified as belonging to Group I (Claims 1-32) are either directed to a correlated filter device (Claims 1-23) or a system that includes a correlation filter (Claims 24-32). The claims identified as belonging to Group III (Claims 42-43 [sic 43-44]) include a "means for filtering." In view of these related elements, the finding of the Office Action that the product as claimed can be used in a materially different process is not accurate.

With respect to restriction between the two identified groups of system claims, Applicants note that the restriction requirement does not set forth any reasoning in support of such a requirement. In particular, the only reasons given in support of the restriction requirement relate to restriction between a product and process, or to a different classification. However, as noted in the restriction requirement, the claims of Groups I and III are all related to systems, and are all classified in the same class and subclass.

For at least the reasons set forth herein, restriction between the identified groups of claims would be improper. Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested. Applicants provisionally elect to prosecute Claims 1-32 (Group I) should the restriction requirement be made final.

Applicants' attorney confirms that the Examiner telephoned to request an oral election on September 1, 2004. During that telephone conference, Applicants' attorney requested that the restriction requirement be presented in writing.

In view of the foregoing, reconsideration and withdrawal of the Examiner's restriction requirement are respectfully requested. The Examiner is invited to contact the undersigned by telephone if doing so would expedite the resolution of this case.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: 

Bradley M. Knepper
Registration No. 44,189
1560 Broadway, Suite 1200
Denver, CO 80202-5141
(303) 863-9700

Date: September 28, 2004